



Reprinted
February 6, 2001

SENATE BILL No. 321

DIGEST OF SB 321 (Updated February 5, 2001 3:35 PM - DI 52)

Citations Affected: IC 13-11; IC 13-14.

Synopsis: IDEM enforcement of restrictive covenants on land. Permits the commissioner of the department of environmental management to enforce in court restrictive covenants on land approved by the commissioner and created in connection with any remediation, closure, cleanup, or corrective action under state environmental statutes. Defines the restrictive covenants to which the bill applies.

Effective: July 1, 2001.

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January 16, 2001, read first time and referred to Committee on Environmental Affairs.
January 30, 2001, amended, reported favorably — Do Pass.
February 5, 2001, read second time, amended, ordered engrossed.

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SB 321—LS 7968/DI 52+



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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 321

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-14-2-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. Except as provided
3 in IC 13-14-6, the commissioner may proceed in court, by appropriate
4 action, to:

5 (1) enforce any final order of the commissioner or of one (1) of
6 the boards;

7 (2) collect any penalties or fees;

8 (3) procure or secure compliance with this title or any other law
9 that the department has the duty or power to enforce; ~~or~~

10 (4) procure compliance with any standard or rule of one (1) of the
11 boards; ~~or~~

12 (5) **enforce a restrictive covenant (as defined in**
13 **IC 13-11-2-193.5) approved by the commissioner and created**
14 **in connection with any remediation, closure, cleanup, or**
15 **corrective action under this title in accordance with the terms**
16 **of the covenant.**

17 SECTION 2. IC 13-11-2-193.5 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2001]: **Sec. 193.5. "Restrictive covenant", for**
3 **purposes of IC 13-14-2-6, means, with respect to land, any deed**
4 **restriction, restrictive covenant, environmental covenant,**
5 **environmental notice, or other restriction or obligation that:**
6 (1) limits the use of the land or the activities that may be
7 performed on or at the land or requires the maintenance of
8 any engineering control on the land designed to protect
9 human health or the environment;
10 (2) by its terms is intended to run with the land and be
11 binding on successors;
12 (3) is recorded with the county recorder's office in the county
13 in which the land is located; and
14 (4) explains how it can be modified or terminated.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 321, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 12, delete "any" and insert "a".

Page 1, line 12, after "covenant" insert **"(as defined in IC 13-11-2-193.5) approved by the commissioner and created in connection with any remediation, closure, cleanup, or corrective action under this title"**.

Page 2, line 4, after "land" insert **"or requires the maintenance of any engineering control on the land designed to protect human health or the environment"**.

Page 2, delete lines 5 through 6.

Page 2, line 7, delete "(3)" and insert **"(2)"**.

Page 2, line 8, after "successors;" insert **"and"**.

Page 2, delete lines 9 through 11.

Page 2, line 12, delete "(5)" and insert **"(3)"**.

and when so amended that said bill do pass.

(Reference is to SB 321 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 321 be amended to read as follows:

Page 2, line 11, delete "and".

Page 2, line 13, delete "located." and insert "**located; and
(4) explains how it can be modified or terminated.**".

(Reference is to SB 321 as printed January 31, 2001.)

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